

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KANDUS DAKUS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

KONINKLIJKE LUCHTVAART
MAATSCHAPPIJ, N.V.,

Defendant.

Civil Action No. 1:22-cv-07962-RA

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendant Koninklijke Luchtvaart Maatschappij, N.V. (“KLM”) respectfully notifies the Court of the following supplemental authority in further support of its Response to the plaintiff’s Supplemental Response to Order to Show Cause (ECF No. 49): *Durant v. Big Lots, Inc.*, No. 5:23–cv–561–GAP–PRL (M.D. Fla. July 3, 2024), ECF No. 44. A true and correct copy is attached as **Exhibit 1**.

This Court previously entered an Order to Show Cause giving “Plaintiff’s counsel one more opportunity to convince [the Court] that he did not act in bad faith” when filing an opposition to KLM’s motion to dismiss that “relied on demonstrably false allegations.” (ECF No. 46). *Durant* supports KLM’s position that Plaintiff’s counsel here (Mr. Spencer Sheehan) should be sanctioned. In *Durant*, the Court granted the defendant’s motion for attorney’s fees and sanctions under its inherent authority to order sanctions after concluding that Mr. Sheehan had filed claims that were “patently implausible” and filed “in bad faith.” No. 5:23–cv–561–GAP–PRL (M.D. Fla. July 3, 2024), ECF No. 44 at 15, 22. The Court explained that “Sheehan collects consumer plaintiffs through social media advertising in whose name he can file and re-file complaints in jurisdictions

around the nation. ... In this manner, Sheehan and his associates ... pursue nationwide defendants ... around the country in court after court seeking a different result from the same claims.” *Id.* at 10–11.

In determining that Mr. Sheehan acted in bad faith, the Court highlighted “the frivolity Sheehan and his enablers inflict upon the judiciary and his defendants, carefully crafting his complaints so that when a judge in one district or division rules against him, he can ‘in good faith’ re-file the same or similar action elsewhere in hopes of achieving success.” *Id.* at 10. The Court determined that simply dismissing the complaint was not enough because “[w]ithout a monetary penalty, this Court’s admonishment would simply join the chorus of courts around this nation warning Sheehan to abide by the standards and rules governing this profession.” *Id.* at 16 (citations omitted). As the Court concluded, “[a]bsent a financial cost for their intransigence, Plaintiff’s counsel ... will continue filing frivolous lawsuits around the nation with impunity.” *Id.*

Dated: July 10, 2024

Respectfully submitted,

DLA Piper LLP (US)

/s/ Keara M. Gordon

Keara M. Gordon

Colleen Carey Gulliver

Haley D. Torrey (*pro hac vice*)

DLA PIPER LLP

1251 Avenue of the Americas

New York, New York 10020

Tel.: (212) 335-4500

Fax: (212) 335-4501

keara.gordon@dlapiper.com

colleen.gulliver@dlapiper.com

haley.torrey@us.dlapiper.com

Attorneys for Defendant

Koninklijke Luchtvaart Maatschappij, N.V.

CERTIFICATE OF SERVICE

The undersigned certifies that on July 10, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system and thereby served on the following counsel:

Spencer Sheehan
Sheehan & Associates, P.C.
60 Cuttermill Rd Ste 412
Great Neck, NY 11021
spencer@spencersheehan.com

Daniel R. Rose
Costello, Cooney & Fearon, PLLC
211 West Jefferson Street, Suite 1
Syracuse, NY 13202

Dated: July 10, 2024

/s/ Keara M. Gordon
Keara M. Gordon